

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

LAZAR *et al.*

Serial No. 10/822,231

Filed: March 26, 2004

For: *Optimized Fc Variants and Methods
for Their Generation*

Examiner: CROWDER, Chun

Art Unit: 1644

Conf. No.: 1316

FILED ELECTRONICALLY

**TERMINAL DISCLAIMER TO
OBVIATE A DOUBLE PATENTING REJECTION**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Petitioner, **Xencor, Inc.** (hereinafter "Xencor"), represents that it is the assignee of the entire right, title, and interest of:

1. The instant application, U.S. Serial No. 10/822,231, filed March 26, 2004, pending; and

2. U.S. Serial No. 10/672,280, filed September 26, 2003, pending.

An assignment is recorded in the United States Patent and Trademark Office for U.S. Serial No. 10/672,280, filed September 26, 2003, at Reel No. 015118, Frame No. 0726, on August 15, 2004.

Xencor hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154-156 and 173, as shortened by any terminal disclaimer of U.S. Serial No. 10/672,280, filed September 26, 2003.

Xencor hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, Xencor does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154-156 and 173 of U.S. Serial No. 10/672,280, filed September 26, 2003, as shortened by any terminal disclaimer, in the event that the patent later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer.

The undersigned is empowered to act on behalf of the petitioner/assignee. The undersigned has reviewed the evidentiary documents in the chain of title of the present application identified above, and certifies that, to the best of assignee's knowledge and belief, title is in the assignee Xencor.

Also included herewith is the terminal disclaimer fee of \$130.00 under 37 C.F.R. 1.20(d). While Applicants believe that no other fees are due at this time, the Commissioner is authorized to charge any fees, including extension fees or any other relief that may be required, in connection with this reply to Deposit Account 50-0310 (Docket No.: 67461-5100US02).

Serial No.: 10/822,231
Filed: March 26, 2004

The undersigned is an attorney or agent of record.

MORGAN, LEWIS & BOCKIUS LLP

Dated: 1/17/07

By: 

Customer No.: 67374

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Filed Under 37 C.F.R. 1.34